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P.D.

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	G	ATTORNEY/DOCKET NO.
09/540,657	05/31/00	MARBARIELLA		

HM12/0530

D SOL EXAMINER

JOSEPH E KOVARIK
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1560 BROADWAY SUITE 1200
DENVER CO 80202-5141

ART UNIT	PAPER NUMBER
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DATE MAILED:

05/30/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No.	Applicant(s)
	09/540,659	BARBARELLA ET AL.
	Examiner	Art Unit
	Andrea M D'Souza	1626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on Amendments and arguments filed 5/4/2001.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 9-14 is/are pending in the application.

4a) Of the above claim(s) 9-14 is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) _____ is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 31 March 2000 is/are objected to by the Examiner.

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) Notice of References Cited (PTO-892)

16) Notice of Draftsperson's Patent Drawing Review (PTO-948)

17) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.

18) Interview Summary (PTO-413) Paper No(s). _____.

19) Notice of Informal Patent Application (PTO-152)

20) Other: _____.

DETAILED ACTION

This office action is in response to the amendments and arguments filed by Applicants as paper no. 6 filed May 4, 2001.

Newly submitted claims 9-14 are directed to inventions that are independent or distinct from the invention originally claimed for the following reasons:

Newly submitted claim 9 and the corresponding depending claims 10-13 are unrelated to originally filed claim 1 and dependent claims 2-7. In the instant case, a light-emitting device is one which can employ several different types of light-emitting materials in order to be luminescent, whereas a specific organic light-emitting material would not require a light-emitting device to be of use. Further, an additional search would need to be conducted for a light-emitting device because the device is composed of additional elements than just a light-emitting material, such as a combination of a film and an electric power supply unit that may or may not be welded or contacted with the film layer. Newly submitted claim 14 differs from the originally filed claims in that claim 14 is drawn to an “electric contact” which is distinct from the light-emitting diode. An electric contact may not have to be light-emitting, i.e. the property of the compound that makes up the electric contact is not necessary to the functionality of the electric contact point, whereas such a property would be key in the formation of a light-emitting diode. This difference would also result in an additional and divergent search to be performed for the additional inventions.

Consequently, newly submitted claim 9 and corresponding dependent claims 10-13 as well as the newly submitted claim 14 are divergent in subject matter from the originally presented claims and would require an additional search and examination, the following

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disposition is identified. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 9-14 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. D'souza, whose telephone number is (703) 305-0811. The examiner can normally be reached on Monday-Thursday from 8:30 AM - 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Joseph K. McKane, can be reached at (703) 308-4537. The Unofficial fax phone number for this Group is (703) 308-7921. The Official fax phone numbers for this Group are (703) 308-4556 or 305-3592.

When filing a FAX in Technology Center 1600, please indicate in the Header (upper right) "Official" for papers that are to be entered into the file, and "Unofficial" for draft documents and other communications with the PTO that are not for entry into the file of the application. This will expedite processing of your papers.

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Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [Joseph.McKane@uspto.gov]. All Internet e-mail communications will be made of record in the application file. PTO employees will not communicate with applicant via Internet e-mail where sensitive data will be exchanged or where there exists a possibility that sensitive data could be identified unless there is of record an express waiver of the confidentiality requirements under 35 U.S.C. 122 by the applicant. See the Interim Internet Usage Policy published by the Patent and Trademark Office Official Gazette on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist, whose telephone number is (703) 308-1234

DEBORAH C. LAMBKIN
PRIMARY EXAMINER



Andrea M. D'souza
May 24, 2001

Deborah C. Lambkin
Primary Patent Examiner
Art Unit 1626
Technology Center 1